IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 25614 of 1995

Between:

K.NARSIMHAPPA S/O K. ANJINAPPA
10th WARD URAVAKONDA
ANANTAPUR DIST.

..... PETITIONER

AND

1 THE COMMISSIONER OF SERICULTURE
ANDHRA PRADESH, HYDERABAD
2 THE DIRECTOR OF SERICULTURE
ANDHRA PRADESH, HYDERABAD
3 THE DEPUTY DIRECTOR OF SERICULTURE
ANANTHAPUR

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ or direction declaring the order of the 2nd respondent in Rc.No.10071/94/E2 dated 15-9-1995 as illegal, arbitrary and consequently direct the respondent to accord provisional registration to the Society and pass such other orders as the Hon'ble Court deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.O.MANOHER REDDY

Counsel for the Respondent No.: GP FOR AGRICULTURE

The Court made the following :

ORAL ORDER:

This writ petition is filed questioning the proceedings of the 2nd respondent in Rc.No.10071/94/E2 dated 15-9-1995 rejecting the application of the petitioner to accord provisional registration to the Society represented by the petitioner.

The petitioner is one of the members of the weaver community who are eking out their livelihood by weaving on silk looms. He made a representation dated 28-2-1994 on behalf of the members of the community to the 1st respondent to register their proposed society as 'Sri Himagiri Silk Weavers Cooperative Production and Sales Society Limited'. After calling for a report from the 3rd respondent, which according to the petitioner, recommends feasibility of starting a new co-operative society, the 2nd respondent rejected the request of the petitioner by the impugned proceedings on the ground that the letter of the petitioner was not accompanied by (1) copies of byelaws (ii) Declaration of eligibility (iii) Status of occupation and (iv) Residential addresses. The petitioner was also advised to approach the Director, Cooperative Development Foundation (SAMAKHYA), Hyderabad for registration of their society under the provisions of the A.P. Mutually Aided Cooperative Societies Act, 1995. Aggrieved by the said order the present writ petition is filed.

In the counter affidavit filed on behalf of the respondents, it is inter alia contended that apart from the grounds mentioned in the impugned order, there was a complaint from one Sri G.Eswaraiah of Urvakonda village about the non-availability of looms in the proposed society, for rejecting the application of the petitioner. It is further stated in the counter that it is beneficial to the petitioner to register their society under A.P. Mutually Aided Cooperative Societies Act, 1995 than under the A.P. Cooperative Societies Act, 1964 and therefore he was advised to opt for registration under the latest Act.

It is contended by the learned counsel for the petitioner that their application has been rejected taking in to consideration the complaint said to have been given by one Sri G.Eswaraiah of Urvakonda village, but the same does not reflect in the impugned proceedings. It is also contended that the petitioner was not given opportunity of hearing before passing the impugned proceedings.

On the other hand, the learned Government Pleader for Agriculture submitted that the petitioner can as well register the Society under the A.P. Mutually Aided Cooperative Societies Act, 1995, which is more beneficial to them.

Admittedly, the ground of complaint from Sri G.Eswaraiah was first time taken in the

counter and it was neither mentioned in the impugned proceedings nor the petitioner was given opportunity of hearing regarding the said complaint, which is against the principles of natural justice. Therefore, I see no justification in rejecting the request of the petitioner to register their proposed society, much less, when there is a favourable report from the 3rd respondent recommending the feasibility of starting a new cooperative society.

In the circumstances, the writ petition is allowed and the proceedings of the 2nd respondent 15-9-1995 is set aside. The 2nd respondent is directed to re-consider the application of the petitioner after giving him opportunity of hearing and considering the report of the 3rd respondent and pass appropriate orders.

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9-9-2004

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That Rule Nisi has been made absolute as above

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday the Ninth day of September, Two Thousand and Four.

To

1 The commissioner of Sericulture
Andhra Pradesh, Hyderabad
2 The Director of Sericulture
Sndhra Pradesh, Hyderabad
3 The Deputy Director of Sericulture
Ananthapur

4. Two C.Cs. to the G.P. for Agriculture, High Court Buildings (OUT)

5. Two C.D. copies